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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,653	03/10/2000	Jay S. Walker	99-062	5172

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EXAMINER

AKERS, GEOFFREY R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/523653

Applicant(s)

Walker

Examiner

Shor, G

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 3/10/00.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other: \_\_\_\_\_

Art Unit: 3624

### DETAILED ACTION

1. Claims 1-58 have been examined.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-58 are rejected under 35 USC 103(a) as unpatentable over Mori(US Pat. No: 6,044,363) in view of Aggarwal(US Pat. No: 6,151,589).
4. As per claims 1-58 Mori teaches an automatic auction method(Abstract) having rules(Fig 4)(Fig 5) as well as a competitivestate judging routine and setting an intial price(Fig 1) as well as utilizing an electronic marketplace server(Fig 2) and display of auction behavior and ordering(Fig 6).Mori further teaches a rulke dditor consisting of specified prfice and price condition(Fig 5/411) and amount condition(Fig 4/421) and registration in rule list(Fig 4/431) and the results of an auction(Fig 7) and a purchase quantity interval(Fig 7/613) for the rule results.Mori further teaches an electronic marketplace monitor(Fig 8) as well as transmission and reception times(Fig 8) and an auction monitor(Fig 11). Mori further teaches judgment of amount condition as a rule engine(Fig 14/1208/1204) as well as bidder quantity conditions(Fig 15) and thresholding(Fig 16/1402) and a judging routine(Fig 16/1405) and a product allocation

Art Unit: 3624

routine(Fig 17) as well as a set of auction conditions(Fig 19).Aggarwal teaches a minimum bid(Fig 2/260) and a market premium  $p$  for determining bidders above  $p$ (Fig 4/420) for purposes of determining the highest and best price. Aggarwal further teaches utilizing the Internet(Fig 1/35) and a response interval for a bid(Fig 2/230 and an interval between auction decisions(Fig 2/240) as well as the seller providing information on a starting bid price and a response window(Fig 3/310) which is used to determine the next time interval an auctioning decision will be made(Fig 3/330) as well as calculation of the maximum time before which a predefined percentage of the premium bidders will not expire(Fig 4/430) and readjusting the time interval when the next auctioning decision will occur(Fig 4/460) and the selection of those  $k$  bidders who have the shortest arrival times and of those give priority to the highest volume in this subgroup(Fig 5/550).It would have been obvious to one skilled in the art at the time of the invention to combine Mori in view of Aggarwal to teach the disclosure. The motivation to combine is to teach an auction method to be utilized for dynamically adjusted time intervals as delineated by Aggarwal(col 2 lines 33-41).

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 3624

6. Claims 24,36,47,54,57-58 are rejected under 35 USC 101 for failing to define a concrete and tangible output. There is no functionality recited in these claims.

***Claim Rejections - 35 USC § 112***

7. Claims 1-58 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant regards as the invention. The independent claims are too broad and indefinite to enable one to distinguish the disclosure over the prior art.

***Conclusion***


8. **THIS ACTION IS MADE NON-FINAL.**

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9. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

August 13, 2003

  
DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER